

Message Text

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ACTION NEA-10

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FOR NEA/IRN ONLY

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SUBJ: AMENDMENTS TO MILITARY COURT LAW IN EFFECT

REF: STATE 284680

1. MFA AMERICAN DEPARTMENT HEAD GOODARZI TRANSMITTED OFFICIAL
REPLY TO POLCOUNS DEC. 10 THAT AMENDMENTS TO MILITARY COURT
LAW ARE IN OPERATION. KAYHAN INTERNATIONAL DEC. 11 AND FARSI
PRESS CARRIED ITEM DESCRIBING REGULATIONS WHICH PERTAIN TO
CIVILIAN LAWYERS WHO REPRESENT DEFENDANTS AT MILITARY
TRIBUNALS UNDER THESE AMENDMENTS. ACCORDING TO THE PRESS,
THESE REGULATIONS WERE ANNOUNCED DEC. 10, APPROVED BY THE
MINISTRIES OF WAR AND OF JUSTICE.

2. REGULATIONS AS CARRIED IN THE PRESS ARE:
A) APPLY TO FIRST-CLASS LAWYERS OR ACTIVE OR RETIRED OFFICERS
OF THE IMPERIAL ARMY OR STATE GENDARMERIE;
B) QUALIFICATIONS FOR SUCH LAWYERS AND OFFICERS ARE:
(1) POSSESSION OF A LICENCE TO PRACTICE FROM THE
BAR ASSOCIATION, OR A BACHELOR DEGREE IN LAW,
OR THE ADVANCED LAW-COURSE CERTIFICATE OF THE
IMPERIAL ARMY, OR A SERVICE RECORD OF AT LEAST
THREE YEARS IN MILITARY LEGAL CORPS OR
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PRACTICE RECORD OF AT LEAST FIVE YEARS IN
MILITARY TRIBUNALS.
(2) ABSENCE OF A CRIMINAL RECORD.
(3) CLEARANCE FROM PROSECUTION ON ACCOUNT OF
CRIMES AND MISDEMEANOURS.
(4) ENDORSEMENT OF THE APPLICANT'S COMPETENCE BY
THE AUTHORITIES CONCERNED.

C) REPRESENTATION POWERS OF THE DEFENCE ATTORNEYS WILL BEGIN IMMEDIATELY AFTER THEIR ACCREDITATION AND CEASE WHEN THE TRIBUNAL DELIVERS ITS VERDICT.

D) MAXIMUM RATES FOR ATTORNEYS HIRED BY DEFENDANTS ARE 15,000 RIALS IN CRIMINAL CASES AND 5,000 RIALS IN MISDEMEANOUR CASES.

E) FOR EVERY FREE-CHOICE CASE THE LAWYER REPRESENTS, HE OR SHE MUST ACCEPT RESPONSIBILITY TO DEFEND TWO CASES AT THE DIRECTION OF THE TRIBUNAL WITHOUT GETTING ANY PAY.

F) FAILURE TO ATTEND THE TRIBUNAL SESSION WITHOUT REASONABLE EXCUSE WILL BE CONSIDERED A VIOLATION OF PROCEDURE. PRESENCE AT THESE SESSION WILL HAVE PRIORITY OVER ALL OTHER COMMITMENTS OF THE ATTORNEYS, EVEN WHEN THEY HAVE BEEN OFFICIALLY SUMMONED TO OTHER COURTS AND OFFICES.

3) COMMENT: WHILE GOODARZI GAVE NO DATE FOR THE AMENDMENTS BEING IN OPERATION, IT SEEMS CLEAR THERE HAVE BEEN NO TRIALS UNDER THEM TO DATE, AND SPECIFIC REGULATIONS INVOLVED IN IMPLEMENTING THEM HAVE JUST OR ARE IN PROCESS OF BEING DRAFTED. WE WOULD NOT BE SURPRISED IF OUR INQUIRY HELPED SPEED THEM UP, THOUGH TIME LAG COULD BE RESULT OF GENERAL BUREAUCRATIC SLOWNESS RATHER THAN ANY CONSCIOUS POLICY DECISION.

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